[Mr. V. Subba Aiyar.]

MR. V. SUBBA AIYAR (*Additional Head Sirkar Vakil*): What I meant was that, so far as the Income-Tax Commissioner is concerned, there is not only no complaint, but he has also been complimented by the members of this House. When I said Mr. Robinson, I did not mean him personally. I referred to the Income-Tax Commissioner. So also in the case of the Revenue Recovery Regulation, if the amendment is made, I do not think there will be any difficulty whatsoever.

As for the powers to be reserved for the Dewan, that is a matter which can be taken up when section 50 itself is considered. The suggestion made by the Deputy President also may be considered at a later stage of the Bill.

The question that the Revenue Recovery Regulation Amendment Bill be read in Council was put and carried.

The Secretary then read the title of the Bill.

MR. V. SUBBA AIYAR (*Additional Head Sirkar Vakil*): To the question of reference to the Select Committee, I doubt whether there is any necessity for this Bill being referred to any Select Committee at all. Because from what I gathered from the remarks made by some members of the House, it is only with reference to section 50 that some amendment is considered to be necessary. I think that, when the Bill comes up again for consideration before this House, any amendment may be proposed and considered and discussed by the House. Therefore, I do not think that there need be any separate Select Committee. I think we can safely avoid the Select Committee stage. I therefore propose that the Bill be not referred to any Select Committee.

The question that the Revenue Recovery Regulation Amendment Bill be not referred to a Select Committee was then put and carried.

THE NANJANAD VELLALA BILL.

MR. V. SUBBA AIYAR (*Additional Head Sirkar Vakil*): I beg to move that the Nanjanad Vellala Bill be read in Council.

MR. M. RAJA RAJA VARMA (*Devaswom Commissioner*): I second it.

MR. V. SUBBA AIYAR (*Additional Head Sirkar Vakil*): Sir, I do not think that any elaborate statement is necessary on my part to explain the general principles of the Bill. The Nanjanad Vellala community had been long agitating for legislation regarding succession, marriage and divorce, and partition. Ultimately Government appointed a committee under the presidency of Mr. Narayana Menon and a Bill was drafted with a view to regulate their marriage and divorce and also to define the amount of *Ukantudama* and *Nankudama* to which the widow and children or the childless widow of a deceased Nanjanad Vellala male are respectively entitled. The Bill was in the first instance restricted

LIBRARY ARCHIVES Kerala Legislative Assembly

to these two heads about which alone recommendation was made. That recommendation was accepted by the Government and the Bill was introduced in the Council. It was referred to a Select Committee and I believe the Select Committee also submitted a report. But the objections to the Bill were very great on the ground that the Bill was not sufficiently comprehensive, inasmuch as it failed to take note of all the requirements of the community and therefore that, even if the Bill were passed, the community would not be any the better. Inasmuch as the volume of opposition to the Bill was very strong, Government resolved to withdraw the Bill and introduce a more comprehensive measure later on. In 1920, the Bill was withdrawn and a committee was appointed to take evidence about the customs and manners of the Nanjanad Vellalas and that committee submitted a report. The committee was presided over by Mr. M. Raja Raja Varma and included some of the members of the Nanjanad Vellala Community. It is a matter for gratification that the report of the committee and the Draft Bill they appended were unanimous and that there was no dissentient note. It is equally creditable to find that, even after the publication of the report and the Draft Bill, no serious opposition has been received from the members of the community excepting a petition signed by about 3 or 4 people. Excepting that, the community as a whole seems to have accepted the report and the Draft Bill, and therefore we may safely take it that the Draft Bill represents the opinion of the community and safely proceed upon it.

The main changes that are recommended have been discussed and detailed in the report itself and I do not think that it is necessary at all for me to make any lengthy observations thereon. But I may refer to the few important changes that have been made in the Bill with reference to the other *Marumakkathaya* Bills, namely the Nair or the Ezhava Bill. In the first place, it is stated that, though ordinarily marriage should be in a particular form, namely the *talikettu* form or the *agnisakshi* form, a remarriage can take place in ordinary *sambandham* form between a widower and a widow only. Both the parties should have already been married once and such marriage should have been dissolved either by death or divorce. That is one of the conditions. Perhaps that may be a matter to be threshed out by the Council later on as in the case of the other bills.

Monogamy is to be enforced. With reference to divorce, there seems to be a strong opinion in the community that divorce should not ordinarily be for no reason whatsoever, and, therefore, divorce is proposed to be for specific reasons. I daresay my friend Mr. Hoogewerf would be gratified to see that such a restriction is imposed *viz.*, that divorce cannot be obtained except for specific reasons.

The next point of difference is with regard to individual partition. Individual partition is allowed and the only restriction seems to be that during the life-time of the mother no one can claim individual partition, and in the case of even *tarwad* property, if a man dies, his wife and children would be entitled to the property that he would have obtained on division before his death.

LIBRARY ARCHIVES Kerala Legislative Assembly

[Mr. M. Subrahmanya Pillai.]

These are some of the main points on which a deviation has been made. I believe, the Bill will in general be acceptable to the House.

MR. M. SUBRAHMANYA PILLAI (*Co-opted Member*): Sir, I have very great pleasure in supporting the motion for accepting the principle of the Nanjanad Vellala Bill. In doing so, I beg to say a few words regarding the history of the public agitation that has led to the introduction of this Bill at the present moment and also about the principles contained in the Bill itself.

So early as 1083, in the third session of the Sri Mulam Popular Assembly, Mr. P. Madhavan Pillai, as representative of the Nanjanad Vellala Association, prayed for allowing the right of partition in the Nanjanad Vellala *Marumakkathayan* families. The President of the Assembly then replied that the matter would receive due consideration at the hands of Government, if a proper representation was made by the majority of the people likely to be affected by the proposed measure. As a result of this first move, a petition signed by about 1,600 people was presented to the Government, during the fifth session of the Assembly, praying for the enactment of a legislation for regulating the system of inheritance, succession, and marriage among Nanjanad Vellalas. I myself had the honour of presenting that petition to the Government. Several defects on these points, especially the changes that were being introduced into their customary law by civil courts against the wishes of the community, and by a simple reference to the laws in vogue in a purely *Marumakkathayam* community, were pointed out in that memorial. They loudly complained of the attitude of the Travancore courts in generally not taking into consideration the peculiar social customs and manners of the community and the mixed system of inheritance followed by them. With a view to ascertain the wishes of the Nanjanad Vellala community, and also to find remedies for the real defects pointed out by them, Government appointed a small committee of enquiry with Mr. K. Narayana Menon, B. A. & B. L., the then Dewan Peishkar of Padmanabhapuram, as convener. Their work was by the G. O. on the subject restricted towards enquiring into the questions of divorce, partition, powers and duties of *karanavans*, *ukantulama*, *nankudama*, and adoption. The procedure of work adopted by that committee was quite different from that adopted by similar committees, such as the Nair Committee or the Ezhava Law Committee, as they did not resort to the examination of witnesses. As a result of the enquiries conducted by them, they recommended legislation on divorce, *nankuduma* and *ukantudama*, and adoption; their findings were against any change in the existing law regarding the powers and duties of *karanavans*; and they reported unfavourably on the question of partition. As a result of the committee's recommendations, Government introduced a Bill in the Legislative Council about the year 1088. The Bill remained in the Council for more than four years, and passed the Select Committee stage. At the time the Bill as modified by the Select Committee was

LIBRARY ARCHIVES Kerala Legislative Assembly

actually under discussion, as a result of public agitation, the Council became aware of the inadequacy of the Bill, and of the fact that the provisions of the Bill had been narrowed down to a few points in their social customs, and that nothing short of a comprehensive Bill, something like the the Nair Regulation, would satisfy the people; and with a view to re-introduce such an enlarged and comprehensive Bill, the one already under consideration was, with the permission of the Council, withdrawn by the Law Member.

The community still continued to agitate; and finally, as a result of an interpellation in the Council two years back, the Government again appointed a stronger committee of enquiry, with M. R. Ry. M. Raja Raja Varma Avargal. M. A., B. L., as its President. I again had the privilege of working on that committee and am now in a position to assure this House that the committee did everything in their power to ascertain the real wishes of the people; and in this connection I wish to express the thanks of the community to the President for the interest he took on behalf of the community in the midst of his multifarious duties as Efficiency Audit Officer and the President of the Salaries Committee. Though at the time of his appointment fears were entertained by a vast majority of the people, that, as the *karanavan* of an orthodox *marumakkathayam* family, he was likely to be biassed against the new ideas of the community, his honest work and impartial and unprejudiced judgment have won for him the good opinion of the community, and they are now under a deep debt of gratitude to him.

The report submitted by this committee is, perhaps, in the hands of all the members of this Council, and I can safely assure them that it is, more or less, a true statement of facts and of the views expressed by the community during the course of the committee's enquiry.

The main principles underlying this Bill are: (1) the granting of the right of individual partition, (2) the introduction of the *Makkathayam* system of inheritance, and (3) the enforcement of monogamy.

From a perusal of the committee's report, the members of this House will be able to see that the volume of opinion in the community was in favour of partition and *makkathayam*, so much so that this principle may safely be regarded as having been accepted by the community. There is nothing in this to be surprised at; for it is merely a longing to regain the old order of things, when even *marumakkathayees*, pure and simple, are themselves fighting tooth and nail to cast off this unnatural system of inheritance. In this connection, it should be specially noted that Nanjanad Vellalas were originally *makkathayees*; that in their social customs they do not differ much from their ancestors of the *makkavazhi*; and that *thavazhi* partition and individual partition in a restricted sense, that is to say, when there are only males of the same grade in the *tarwad*, are quite common among them, so much so that the existence of a common *karanavan* in a collateral *thavazhi* is the exception and not the rule. The right of *uranudama* or the right of partitioning paternal property, and the right of *nankudama* or the right

LIBRARY ARCHIVES Kerala Legislative Assembly

[Mr. M. Subrahmanya Pillai.]

of the maintenance of the childless widow from her husband's *tarwad* property, are relics of their former *makkathayam* system of inheritance. To have a correct idea of the position they occupy between the *makkathayees* and *marumakkathayees*, I shall read a paragraph from Mr. Narayana Menon's report, which has also been incorporated in the present report. It reads thus :

"When the Nanjanadans became isolated from their kinsmen beyond the Ghats, they began to change their social and domestic condition. Their inheritance became modified, their matrimonial ideas altered, and their caste structure became in course of time an interesting medley of Tamil and Malayalam social characteristics. Thus, the first marriage of the Nanjanad Vellala is purely of a Pandi type and the second is the *sambandham* of th Malayalees. The law of inheritance, so far as it relates to *nankudama* and *ukantudama*, is of the Pandi *makkathayam* system, but in all other respects it is the *marumakkathayam* system of the Nairs. The dress and ornaments of the females are those of the Tamilians, but the attire and mode of wearing front tuft, etc., of the men are similar to those of the Nairs. The compulsory performance of obsequial ceremonies by the son is a relic of the *makkathayam* system. The performance of such rites by the nephew, in the absence of the son, is an accordance with the *marumakkathayam* custom. In fact, in all their important social and religious customs, the combination of *makkathayam* and *marumakkathayam* ways can be observed to exist."

Sir, while listening to the arguments brought forward by several members of this House in support of the principles of the Nair Bill, I had the opportunity to hear some of them say that there was a time when Nairs, or, for that matter, all the pure *marumakkathayees* only paid occasional visits to their wives in their houses, and that, in those times, *marumakkathayam* was to them the most ideal and suitable system of inheritance. But the Nanjanad Vellala community never had such an experience under *marumakkathayam*; on the other hand, they were suffering under an unwholesome combination of the two systems. But now, the main principles on which this ancient law was based having been broken, the very foundation on which the system rested having been undermined, the fall of *marumakkathayam* is not far off; and I hope the sister communities will agree in joining hands with them in their march towards the common goal of *makkathayam*. Civil courts have paved the way for our march by their later decisions on suits for maintenance by *seshakars*. They have managed to drive the *karanavans*, the once ardent defenders of *marumakkathayam*, to the necessity of joining the opposite camps and working for the speedy destruction of the system itself.

With regard to the clause dealing with partition, I have a word to say The committee recommended outright individual partition and *makka hayan*. But the learned Law Member has chosen to make a material alteration, by disallowing partition when the mother is alive. Personally, I am in favour of retaining such a condition, though with a slight alteration. I think that, with the consent of the mother, and after making provision for her maintenance, the children should have the right of claiming partition. I am quite conscious that I differ from the recommendations of the Nanjanad Vellala Committee. I have, since

LIBRARY ARCHIVES Kerala Legislative Assembly

the writing of the Committee's Report, bestowed sufficient thought on the question and have satisfied myself that a sudden and convulsive change in social matters is injurious to the community. I take it that the educated opinion in the community, as received by the enquiry committee, was in favour of such a procedure, and I regard that opinion as not that of a mere negligible minority. I also think that the majority opinion in favour of immediate outright partition was, to a considerable extent, arrived at by the enthusiastic inspiration from a few on a very large number of unthinking minds.

There is yet another reason on which my opinion is mainly based. A *marumakkathaya* Vellala male, whether he be a *karanavan* or *seshakaran*, generally acquires property not in his own name, but in the name of his wife and children. This will invariably be found to be the practice. This he does in order to be always on the safer side, and to avoid the unnatural succession stipulated by the *marumakkathayam* law, in case any sudden calamity happens. He relies on the affection of his wife and children to be in undisputed enjoyment of his acquisitions till his death, in spite of the fact that the acquisitions were made in favour of another *tarwad* to which, according to the *marumakkathayam* law, he does not belong. When once acquired in this manner, the acquisitions become the *sub-tarwad* property of the wife and children, in the devolution of which he is not concerned. Most of the *sub-tarwads* will have at least some such property. Now, when immediate individual partition is allowed, we can more or less imagine the miserable condition of such acquirers. The properties mentioned also become divisible. In such *sub-tarwads* the father and the mother are the only two unifying forces, and I think at least one of them should be given the right of deciding whether and when the *sub-tarwad* property should be divided during their lifetime. The giving of such a right to the father or husband as the case may be is out of the question; for, the father or the husband has no *locus standi* so far as the particular *sub-tarwad* is concerned. This is one of the main reasons that weigh with me in allowing the mother, during her life-time, the right of deciding when a *sub-tarwad* should divide.

I hope, every time a partition is effected, a few from each such family will be liberated from the purview of the *marumakkathayam* law, and it is with a view to hasten the transformation that I have suggested the grant of the right of partition even during the life-time of the mother, provided she agrees to it.

Again, with regard to the method of division, there is a good deal of opposition in the community. Division of the *tarwad* property *equally* among all the members of the *tarwad* is the method recommended by the committee and adopted by the mover in the Bill. This, as far as I know, is going to be opposed, for this method of partition is a new method so far as the community is concerned. Partition is common in the community, but it is generally effected not by a *per capita* division among all the members, but by *stirpes*, the males and females of the same grade taking equal shares irrespective of the number of children the females have at

LIBRARY ARCHIVES Kerala Legislative Assembly

[Mr. M. Subrahmanya Pillai.]

the time of partition. The children of a male are now entitled to *ukantudama* from their father's *tarwad* property; and in calculating that share only male members of the same grade are taken into account. The majority of the people are against *per capita* division, because they think that in very many cases the *per capita* share of a man may go even below the *ukantudama* share his children are entitled to after his death. The method of *per capita* division, perhaps, as a result of that *makkathaya* Vellala instinct, is foreign to their notions of equity. It is true they are for partition, but not for equal division among all the members. They argue now that by തുല്യഭാഗം ഭാഗം they meant that each man or woman should get his or her share with a view to adopt *makkathayam*. They say that they did not mean equal division among all the members when they advocated തുല്യഭാഗം ഭാഗം, and that they have been misunderstood by the committee. They could not imagine how a *karanavan* or another member of the same grade with him could be brought to the same category as his great-grand-nephew, perhaps not even six months old. In this connection, we have yet another point to be taken into consideration. Nanjanad Vellalas are not purely *marumakkathayees*. Their system of inheritance is a combination of the systems of *makkathayam* and *marumakkathayam*. The children of males are, as such, entitled to a portion of the *tarwad* property of the males as their nephews are. Children and nephews are co-heirs to the *tarwad* property. Under the circumstances, the method of division now proposed in the Bill is one that totally ignores the claims, already existing, of the children of Nanjanad Vellala males, and as such cannot be said to be an equitable one. So, agreeably to the conditions now prevailing among Nanjanad Vellalas, the method of partition now proposed in the Bill requires alteration; and I think that, on the death of a mother the children, both males and females, I mean members *of the same grade*, should have the right of dividing the *tarwad* property equally among themselves irrespective of the number of children each has, and that that alone will be an equitable method of partition. If necessary, I have personally no objection to treating the portion thus divided as the ancestral property of the male or female and restricting their powers of free alienation in the case of those who have children as in the case of those who follow *makkathayam* under the Hindu Law. The property thus divided must again be divisible equally among their children after their death.

The method of division I have just suggested will have the effect of immediately removing *marumakkathayam*, instead of perpetuating it as contemplated under clause 11 of the Bill that disallows partition when the mother is alive. It will also remove the fear of extreme disintegration of *tarwad* property generally complained of and urged as an argument against *per capita* division.

The Bill, as it is, by proposing *per capita* division and at the same time disallowing partition during the life-time of the mother,

LIBRARY ARCHIVES Kerala Legislative Assembly

contemplates perpetuating *marumakkathayam* side by side with *makkathayam*. A mother is going to have two kinds of properties—one, her separate property which is to descend according to *makkathayam* with shares only to her children, and the other *tarwad* property, over which all her descendants including her grandchildren have a right. Under such circumstances there will arise a necessity for keeping separate accounts showing the income and expenditure from the two different sets of properties. Thus, we are only going to create more confusion instead of simplifying succession.

Again, according to the proposal, there is going to be no fixity of shares. Immediately the Bill is passed, there is going to be a rush for partition. Loss of a day may tend to diminish or increase the share of a member in the *tarwad*, either by the appearance of a new born, or by the death of an already existing, shareholder in the *tarwad*. One cannot be sure how many times one will have to correct the plaint in a partition suit before it is finally decided by the High Court.

Again, I think there will be real heart-burning when sisters of the same grade are not given equal shares. According to the proposal contained in the Bill, on the death of a mother, the eldest sister, simply because she was born a little earlier and began child-bearing earlier, is going to get a larger share on the partition of the *tarwad* property than her unfortunate younger sister. Further, if the younger sister is still unmarried, she loses the right of getting herself married at the cost of the *tarwad*. This appears to be rather a punishment for not being sufficiently brisk in the matter of child-bearing.

Again, I have a very serious doubt as to the method of devolution of property obtained by an unmarried or childless woman as her share out of her *tarwad*. Is it going to be her separate or her *tarwad* property? If it is to be her separate property, it will devolve only upon her children after her death, and her grandchildren will have no claim over it. She will also have full rights of alienation in spite of children born later on. Again, if it is going to be regarded as having been for some time her separate property, it changes into *tarwad* property immediately a child is born to her. I cannot imagine how the community will cherish this process of converting property that has once become *makkathayam* again into *marumakkathayam* property.

I have only pointed out the above to show some of the serious difficulties that will result by adopting the proposals on partition as contained in the Bill.

I also beg to point out that the Bill, as it is, is defective, in so far as it does not contain a part defining the powers and duties of *karanavans*. Section 11 of the Bill contemplates the existence of *marumakkathayam tarwads* even after the passing of this Bill; and as such, it is necessary to add another part to the Bill defining the powers and duties of the *karanavan* in the management of *tarwad* properties.

The next important principle involved is the enforcement of monogamy in the community. As for my part, I am against it. I have various reasons for coming to that conclusion.

LIBRARY ARCHIVES Kerala Legislative Assembly

[Mr. M. Subrahmanya Pillai].

First of all, the community is a self-contained one, so far as matrimony is concerned. They have no matrimonial connections with any other community, and as such cannot look to any other community to supply husbands to their superfluous women. A reference to the census figures will clearly show that the number of women in the community is far larger than the number of men. To save the community from the scourge of old maids, as is generally found among westerners as a result of this social custom, is my reason for opposing the proposed measure. I am of opinion that a restriction of the proposed kind will not only prove injurious to the community, but will also affect the morality and self-respect of the community. We have already begun to feel the difficulty of obtaining suitable husbands for our girls; and where available, the parents of bridegrooms have of late begun to demand high prices in the shape of money and jewels for consenting to a marriage proposal. The enactment of a measure of the kind proposed will only aggravate the situation and will certainly have the effect of raising such prices and lead to misery and unhappiness in Nanjanad Vellala homes. We have heard a good deal about the evils of the dowry system, and at least to prevent the evil consequences of such a system, the custom, as it now stands, should be allowed to remain undisturbed.

Again, if monogamy is enforced, a husband has to divorce his unfortunate sickly wife, by means fair or foul, even though they are prepared and willing to live as man and wife, looking after the welfare of each other, if only the man is allowed to have one more wife. Divorces of wives on account of incurable diseases or barrenness become a necessity.

MR. A. HOOGEWERF (*Nominated*): If the second wife is also diseased, can he have a third wife or a fourth wife? (*Laughter.*)

PRESIDENT: He may marry any number of wives.

MR. A. HOOGEWERF (*Nominated*): Will Mr. Subrahmanya Pillai allow a healthy wife to divorce an unhealthy husband?

MR. M. SUBRAHMANYA PILLAI (*Co-opted Member*): No; that is not usual in the country.

MR. A. HOOGEWERF (*Nominated*): Will it not give rise to very unhealthy children? (*Laughter.*)

MR. M. SUBRAHMANYA PILLAI (*Co-opted Member*): Very likely.

Cases are not rare in which a man marries once again to beget a son to perform his obsequies as their performance is supposed to be a religious necessity for obtaining salvation, and also sometimes to provide a person to look after not only himself but also his unfortunate first wife. The enforcement of monogamy has the tendency of driving a husband and his wife to seek divorce against their wishes, and that, in my opinion, is quite undesirable. It should be our endeavour to minimise the number of divorce cases and thus to conserve the morality and self-respect of the community.

LIBRARY ARCHIVES Kerala Legislative Assembly

Monogamy, I think, is a purely western institution.

MR. A. HOOGEWERF (*Nominated*): What about the Brahmins?

MR. M. SUBRAHMANYA PILLAI (*Co-opted Member*): They are having polygamy.

PRESIDENT: He wants to know whether Brahmins usually have only one wife. (*Laughter.*)

MR. A. HOOGEWERF (*Nominated*): I do not mean to say the back-door wife (*laughter*) that he might have; I am only speaking of the regular wife.

PRESIDENT: Mr. Subrahmanya Pillai says that Brahmins may have more than one legal wife.

MR. A. HOOGEWERF (*Nominated*): I want to know what the custom is.

MR. M. SUBRAHMANYA PILLAI (*Co-opted Member*): Brahmins are allowed polygamy; they can marry again when necessity arises.

MR. A. HOOGEWERF (*Nominated*): That is not the answer to my question.

PRESIDENT: You cannot compel him to answer; you can only put a question.

MR. M. SUBRAHMANYA PILLAI (*Co-opted Member*): Monogamy, I think, is a purely western institution. In social customs, there is a world of difference between the western nations and ourselves. There, man and woman select their life-companions themselves, and that at a mature age. But the conditions here are quite different. Coupling here is effected not by the parties themselves but by their parents, sometimes on other considerations also, and at a time when the parties themselves are not of a ripe age and capable of realising the significance of the sacrament of marriage. Again, it has not been sufficiently proved that there is such glaring misuse or abuse of the custom as to necessitate a change of the proposed kind. Even granting that there is some abuse of the custom, I am of opinion that, by making marriages legally valid, the evils will be minimised, for males then become obliged to maintain their wives and children. I do not also find sufficient reason to alienate ourselves still further from other Hindus—especially our Vellala brothers. On these grounds, I am strongly of opinion that the retention of the institution of polygamy will be only conducive to the happiness and prosperity of the members of the community.

Another provision I wish to take objection to in the Bill is clause 4. As is evident from the Statement of Objects and Reasons, the mover has drafted this section with a view to allow the re-marriage of a male or female only with a widow or a widower as the case may be. Before proceeding to deal with that view of the question, I beg to point out that the Law Member has failed to convey in the section his idea as pointed out by him. Section 4 is merely a permissive one, and simply permits the re-marriage of a widower with a widow through the process of

LIBRARY ARCHIVES Kerala Legislative Assembly

[Mr. M. Subrahmanya Pillai.]

sambandham ceremony to be regarded as a legally valid marriage. It does not disallow the marriage of a widower with a virgin, or that of a bachelor with a widow, though such a course was proposed by the Nanjanad Vellala Committee, and meant to be adopted by the mover. This on the part of the mover may be an oversight and capable of being corrected at a later stage of the Bill. But, as for the proposal itself, *viz.*, that marriages between widowers and widows only should above be recognised valid marriages, I have got the strongest objection. This is a point on which I myself dissented from the opinion of my colleagues on the Nanjanad Vellala Committee. The community never wanted such a restriction. Evidence on this point was neither sought nor volunteered. Such a contingency was never anticipated by the members of the committee itself, till the whole evidence was collected. The question developed at a later stage, at the time of writing the report. I can boldly assert here that not a single individual gave evidence to show that he wished to invalidate marriages between widowers and virgins, or marriages between bachelors and widows. As far as I recollect, the evidence collected only tended to show that the first marriage of a woman must always be *Agnisakshi-Vivaha* of the Pandi type, and that the second marriage of a woman must always be the *Sambandha-Vivaha* of the Malayalam type. They were for allowing any kind of first marriage for a male, whether bachelor or widower. The custom of males marrying virgins or widows as they pleased was taken for granted; the Committee never thought of questioning the witnesses on that point; and the members of the community never volunteered to suggest a change of this custom. There are any number of cases in which bachelors have married widows through the recognised *sambandham* ceremony and widowers married virgins through the *Agnisakshi-Vivaha* ceremony; courts of law have recognised such marriages, and decreed *Nankudama* and *Ukantuda'na* rights to such wives and children; and the community itself has placed no odium on the contracting of such alliances. I am myself surprised at the majority opinion of the Committee and it has also raised a commotion among the members of the community. A widower or widow should have the freedom of choosing a virgin or a bachelor as the case may be. Custom permits it, courts of law recognise it, and the community does not wish for a change. I strongly object to the inclusion of a provision in the Bill as suggested by the Nanjanad Vellala Committee behind the back of the community itself.

I do not propose to go into the minor details of the Bill. Difference of opinion in matters of detail is inevitable in social legislation. There is, as is always the case, a good deal of difference of opinion in regard to minor details, but the community rests its confidence upon the good sense of the House to get through all difficulties.

A perusal of the Bill will clearly show that, while attempting to convert the community into a *makkathayam* one, the chief defects complained of in the Hindu Law are also proposed to be eliminated.

LIBRARY ARCHIVES Kerala Legislative Assembly

The Bill allows widow re-marriage, divorce on merit in certain extreme cases, and equal rights of *makkathayam* inheritance to children both male and female. At the same time, the Bill attempts at removing the inherent evils of *marumakkathayam*, *viz.*, loose marriage ties and free divorce.

The introduction of this Bill at this moment is, I think, quite opportune; for, the Nair Bill and the Ezhava Bill, more or less indentical ones, are now under the consideration of this Council, and the benefits of the hot discussion of the members over the provisions of those two Bills will be of much use in the consideration of the provisions of this Bill also. I beg to add, Sir, that this Bill does not propose to trespass into the personal rights of other communities as alleged in certain quarters against the Nair Regulation Amendment Bill introduced by my friend, the late lamented Mr. K. P. Raman Pillai. I appeal to the members of this House, both *makkathayees* and *marumakkathayees* to grant the measure the benefit of mature consideration and to help to carry the Bill through all its stages and thus to satisfy the wishes of this small but important community in the State, the members of which, out of loyalty to their Sovereign and out of love to their brother citizens, separated once in a body out of their ancestral community and adopted the social customs and rights of inheritance followed in the land of their adoption.

Though I have differed in respect of some of the provisions of this Bill, the main principle of the Bill, as a whole, I accept; and I therefore support the motion.

Before resuming my seat, I would request the President to accept a petition signed by Mr. C. Sadasivan Pillai B. A., Kaimood House, Mavelikara, who is also the manager of the office of the Director of Public Instruction. It is almost a protest against the granting of partition, whether *individual* or *thavazhi*. As it is voluminous, I do not mean to take up the time of the Council by reading it. I only present the petition to the Council for its acceptance.

MR. PAUL V. DANIEL (*Agastisvaram*): Sir, I rise to support the principle of the Bill. This Bill, Sir, is intended to serve a large number of my constituents whom I have the privilege to represent in this Council.

The necessity for social legislation for the Nanjanad Vellalas has been felt very keenly during the last quarter of a century. I have been moving on the very best of terms with a good many members of prominent Nanjanad Vellala *tarwads* during this period and have had occasion to observe their difficulties, anxieties and aspirations. Even in remote days, the seeds of future troubles for *seshakars* and junior members were being sown, and their position was becoming more and more unenviable as years advanced. Many of the junior members were at their wit's end to get a living, though the *tarwads* to which they belonged were immensely rich and influential. The impetus to education and industry was therefore lacking and the litigation which arose out of these inconveniences and discomforts told heavily on the material position and on the harmonious working of the community.

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[Mr. Paul V. Daniel.]

At this time of the day, it is superfluous and unnecessary to make out a case for social legislation. No society need fight shy of legislation. This Council has been responding to the call of duty in correcting the anomalies that have crept into the body politic of several societies. Not to speak of the Ezhava or Nair Bill, we have got the example of the distinguished President of the Democratic Party in the Imperial Legislative Assembly introducing a Bill to effect certain changes in the existing Hindu Law in consonance with the advancing tide of the times. The character of human beings is generally influenced by their surroundings and the duty of the legislature is to take note of the changes that generally creep into societies and to remedy the evils, if any, that call for rectification. In view of the present position of the younger generation in the Nanjanad Vellala community, certain material alterations are, of course, necessary to suit modern requirements.

It was about a decade and a half ago that the first demand was made for social legislation for Nanjinad Vellalas in this very hall when the Assembly was in session. In response to the popular request, a Bill was introduced in 1090. In the mean to me the advanced section of the community, awakened to a deep sense of responsibility by the vigorous and sincere agitation of some educated enthusiasts, represented that that Bill was not sufficiently progressive. The Bill was, I think, dropped in 1091, on the understanding that another enlarged and modified Bill would be brought in as soon as possible. The Nanjanad Vellala Committee was then appointed to ascertain the real wishes of the people, for what might have satisfied the people in 1085 might fall short of their real wishes later on. I do not propose to take up the time of this august Council by referring to the case law on the subject. The community felt aggrieved at certain decisions which, they thought, were based on the impression that the Nanjanad Vellalas are a pure *marumakkathayam* community. The existence of the rights of *Ukantudama* and *Nankudama* is inconsistent with *marumakkathayam* law. From 1070 onwards, the Nanjanad Vellalas have been protesting strongly that they are not *marumakkathayees*, pure and simple, and that even to the extent that they are *marumakkathayees* they have become so on account of certain exigencies of political circumstances. They were no doubt originally *makkathayees* governed by Hindu Law. They cannot, therefore, be regarded as *marumakkathayees* to a greater extent than is necessitated by custom. But judicial decisions have created a gulf between their laws and their social usages. In the interest of their communal and individual welfare, it is necessary to bridge this gulf by adequate legislation. The community therefore desired, though not unanimously, that the right of individual partition must be allowed, that *makkathayam* should be introduced and that divorce might be granted by courts for sufficient reasons such as incapacity for sexual felicity, incurable diseases, adultery, etc. It was at this stage that the committee was set to work and the present Bill is its result.

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It is not necessary to dwell at any length upon the provisions of the Bill which will have to be duly considered later on. But I feel it my duty to mention here certain important points which should receive the kind consideration of the Select Committee. As regards marriage, perfect freedom of choice, both for a widow and a widower, in the matter of *sambandham* or marriage, should not be interfered with unless there is adequate justification compled with real necessity. Marriage should be declared legal for all purposes. A clear provision should be made to safeguard the interests of a minor girl in case she is married by a man without the consent of her guardian. The provisions regarding dissolution of marriage, succession and partition of property require some consideration. Divorce should be restricted and made possible only under exceptional circumstances. Only then can you be sure of monogamy which Mr. Hoogewerf so much desires to have. This is the watchword given to the Nair community by my learned friend Mr. Subba Aiyar when the Nair Bill was being discussed within this hall. And I would even go a step further and say, on the assertion made to me by many of the most learned and respectable members of the Vellala community—(the notes written in the handwriting of one of them I have with me now)—that the State should have some special control over this important matter. Mr. M. Subrahmanya Pillai of Terur, I am sorry to say, is advocating polygamy. For the information of the House and for the satisfaction of my friend Mr. Hoogewerf, I shall read what Mr. Azhakappa Pillai, a graduate-in-law and one of the foremost members of the community, has written regarding this :—

"*By mutual consent evidenced by a registered document.*—Three of the five members of the committee are against this provision as a means of obtaining divorce. It is therefore curious that this should have become a provision in the Bill recommended by the committee.

The statement or argument in the report that the majority of witnesses require mutual consent as a ground does not appear to be correct. Their analysis of the evidence on this point is not convincing. For, of the 300 witnesses examined, they account for only 189 and they do not say what the views of the rest of the witnesses are. The matter for consideration, however, is much more than merely to ascertain the view of the majority number of the witnesses. The minority members of the committee who would have their view predominate over the view of their majority colleagues would argue no further than that a large number of witnesses supported them. The witnesses cannot, in the nature of things, be each one of them a jurist and a legislator. It might have been well, therefore, if the minority had defended their position by stating reasons.

The real question seems to be rather whether there is not a principle and a justification in determining the adequacy and suitability of the provisions for divorce in a particular society. If there is a justification in restraining absolute freedom of divorce even by such provisions as the one which insists on dissolution by decrees of courts in payment of compensation without going into the propriety of the grounds, is there not again a justification beyond the opinion of witnesses in going further and saying that it is not enough if the court decrees dissolution automatically in payment of compensation? But divorce should be granted only upon proper grounds and the court should decree dissolution only upon the proof of the existence of such proper grounds. If there be one, upon the same rests the view that mutual consent should not be the ground for divorce.

Mutual consent seems to go well along with the provision to pass a decree in payment of compensation as its natural twin-brother. In either of them, there is no whisper about grounds. The matter is a matter for settlement between the parties themselves.

LIBRARY ARCHIVES Kerala Legislative Assembly

[Mr Paul V. Daniel.]

Whether they will separate or not, for what reason they can separate—upon these questions no third party has any say whatever. But under the system where divorce is allowed only upon stated grounds, the whole position is different. The stated grounds are independent of the wishes of the parties. They emanate from and depend for their being on a third party, namley, the society or the State. The State might well say "no divorce whatever under any circumstance or on any ground," as it has said in Hindu Law and the Catholic Christian law. Or it might descend a step lower down and say 'divorce upon proper grounds' as is the case with most of the Protestant Christians. Why and how it says so or whether it can say one thing at one place and another thing at another place is a different question. The present point is that, in the system of divorce upon proper grounds, it is the State or the society that states and maintains the grounds and not the parties to a particular marriage. The virtue and essence of this system consist therefore in the fact of the society so stating the grounds and maintaining them and in putting it altogether beyond the power of the parties to a marriage to agree with each other to separate without satisfying the grounds maintained by the State independently of their wishes. Hence the system of proper grounds is a denial of and an antithesis to divorce by mutual consent.

What is the justification here for the system of proper grounds in preference to the system of compensation? It is this: that in this society legal marriage has been in existence from immemorial times, that the marriage bond is stronger and that it requires to be protected by stricter provisions for divorce. And what other meaning to ascribe to the whole lot of the witnesses persistently insisting on not allowing divorce except upon proper grounds?

And again, if the parties can separate merely by their agreeing with each other to do so for any reason or for no reason, then what reason or justification can there be for the position that if they do not agree the fixed grounds are to be insisted on? In other words, why should they not get divorced on any ground? That marriage is an affair between the two contracting parties alone is a pure and simple negation of all marriage. The fear of washing dirty linen before the public is also given a quietus to by the report as well as by the Bill. The policy which holds up the system of proper grounds cannot surrender the whole of its soul and be reduced into a vacuum of nothingness whenever there appears what is called mutual consent of parties.

As regards partition, I find that the opinion of the community is sharply divided, one advocating partition individual and equal for all the members of the *tarwad* and the other advocating partition equal only for brothers and sisters—whether they have children or not and whatever be the number of their children-in other words, branch-partition accompanied later on by individual equal partition among the children of the respective branches. Further, a very large section of the community feels that absolute disallowance of partition during the lifetime of the mother would only aggravate the evils already existing in the community, and that partition should be allowed at least when the mother consents to do so and on making a suitable provision for the mother. The most equitable and best provision for the present generation both young and old should first be made. These are things that have to be dealt with in the Select Committee.

As one deeply interested in the welfare of the community, and as one representing a taluk in which they figure prominently, I beg to support the principle of the Bill and hope it will be passed into law as early as possible. I beg to submit that delay in the matter will result in great loss to the community. Already there is considerable dissatisfaction

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that there has been so much delay. I earnestly appeal on behalf of my electorate to expedite this legislation. The House will be aware that the first Bill was introduced in 1090 and it is not in the Statute Book for no fault, I think, of the community. I hope the learned Law Member, Mr. Subba Aiyar, will ere long send it forth to the community with his usual blessings of a godfather.

Sir, I beg to present to the Council two petitions which my Vellala brethren wanted me to present to the Council.

MR. T. M. CHIDAMBARATANU PILLAI (*Tovala cum Kalkulam*): Sir, I rise to support the bill.

நாஞ்சிநாட்டு வெள்ளாளராகிய எங்களுடைய ஆசாரங்களெல்லாம் மக்கள்வழி ஆசாரங்கள். ஆனல் எங்களுக்கு ஏற்பட்டிருக்கும் சட்டமோ மருமக்கள்வழி ச்சட்டம். இந்த இரண்டும் ஒரு க்ஷணநேரமாவது பொருந்திப்போகமாட்டா என்பது ஒருவர் சொல்லியறியவேண்டிய காரியமல்ல. இக்காரணத்தால், குடும்ப ப்போராட்டத்திலும் கோர்ட்டுவழக்கிலுமே எங்களுடைய பொழுதும் பொருளும் வீணுகப்போகின்றன. இதன் உண்மை, நாஞ்சிநாட்டு மான்மியம் என்னும் ஹாஸ்யகவி (Satire) யில் கோடேறிக்குடிமுடித்தபடலம், 'கும்பியெரிச்சல் படலம்' முதலிய பாகங்களைப்படித்துப்பார்ப்பவருக்கு நன்கு விளங்கும்.

எங்களுடைய ஆசாரத்துக்கும் ஜீவிதத்துக்கும் பொருத்தமான சட்டம் ஒன்று உண்டுபண்ணித்தந்து எங்களுடைய கஷ்டங்களையெல்லாம் நிவர்த்திசெய்து தரவேண்டுமென்பதாக மூன்றுவது பிரஜாஸபை முதலே மூடக்கமில்லாமல் முறையிட்டுக்கொண்டு வருகிறோம். எங்கள் பாக்கியக்குறைவினலோ, வேறே க்காரணத்தினலோ எங்கள் விருப்பமானது இன்னும் நிறைவேறினதாகவில்லை.

1910-வது வருஷத்தில் எங்களுடைய ஆசாரங்கள், வழக்கங்கள், சடங்குகள் முதலியவற்றைக்குறித்து விசாரணைசெய்து றிப்போர்ட்டு ஸமர்ப்பிக்கும்படியாக ஒரு கம்மிட்டி ஏற்படுத்தப்பட்டது. அந்தக்கம்மிட்டி மெம்பர்கள் மூவரும் காரணவர்களாகவே யிருந்தார்கள். இவர்கள் ஸமர்ப்பித்த றிப்போர்ட்டைநீகுறித்து ப்பலவிதமான ஆக்ஷேபங்கள் அக்காலத்தில் பத்திரிகைகள் மூலமாகவும் பிரஸங்கங்கள் மூலமாகவும் வெளிவந்ததுண்டு. கடைசியாக, இப்பொழுது இந்த பில்லை ஆஜராக்கியிருக்கும் ஸ்ரீமான் சுப்பையரவர்களே அந்தக்கம்மிட்டியாரின் றிப்போர்ட்டை ஆதாரமாக வைத்துக்கொண்டு எழுதின ஒரு பில்லை 1913-வது வருஷத்தில் கூடின சட்ட ஸபையில் ஆஜராக்கினர்கள். அந்தபில் ஸபையாரால் அங்கீகாரம் செய்யப்பட்டு லெஜிஸ்லேட்டிவ்கம்மிட்டியாரிடம் ஒப்புவிக்கப்பட்டது. ஆனல் ஜனங்கள் அவ்விதமான பில் சட்டமாக வருவதினல் யாதொரு நன்மையும் உண்டாகமாட்டாதென்று உணர்ந்து அந்த பில்லிலுள்ள குற்றங்குறைகளையெல்லாம் எடுத்துக்காட்டி கவர்ன்மென்ருரிடம் மனுச்செய்து கொண்டனர். அதனல் 1920-வது வருஷம் கூடின சட்டஸபையில் அந்த பில் பின்வலிக்கப்பட்டது.

இதன் பின்னும், பழயபடி 'சட்டம் வேண்டும் சட்டம் வேண்டும்' என்று முறையிடத்தொடங்கினேம். பிரஜாஸபை மெம்பர்கள் மூலமாகவும் தெரிவித்துக்கொண்டோம். சட்ட சபை மெம்பரைக்கொண்டும்

LIBRARY ARCHIVES Kerala Legislative Assembly

[MR. T. M. Chidambaratanu Pillai.]

கேள்விகேட்கச்சொன்னேம். 'அழுதபிள்ளைதான் பால்குடிக்கு'மென்ற பழமொழி பொய்மொழியாதுமர்? எங்கள் விண்ணப்பங்களின் பயனாக நமது காருண்ய கவர்ன்மென்ரூர் 1921-ல் இரண்டாவது கம்மிட்டியொன்று ஸ்ரீமான் ராஜாராஜவர்மா அவர்களின் தலைமையின் கீழ் ஏற்படுத்தித்தந்தார்கள். அதில் காரணவர்களுடையவும் அனந்திரவர்களுடையவும் பிரதிநிதிகள் மெம்பர்களாக இருந்தனர். அவர்களில் நானும் ஒரு காரணவ மெம்பராக இருந்தேன். இந்த கம்மிட்டியார் ஸமர்ப்பித்த ரிப்போர்ட்டையும் பில்லையும் தழுவியே ஸ்ரீமான் சுப்பையரவர்கள் பிரஸ்தாப பில் தயார் செய்திருக்கிறார்கள். இதிலடங்கியிருக்கும் விஷயங்கள் பெரும்பாலும் எங்கள் கோக்கத்திற்கும் விருப்பத்திற்கும் அனுகூலமானவைகளே என்பதில் யாதும் சந்தேகமில்லை. சிற்சில பாகங்களில் மட்டும் சில சிர்திருத்தங்கள் அவசியமெனத்தோன்றுகிறது. ஆனால் அவையாவும் ஸெலக்ட் கம்மிட்டியில் சரிப்படுத்தக்கூடியவைகளேயாம்.

ஆதலால் இந்த பில்லை சபையார் அங்கீகாரம் செய்யவேண்டுவது மிக அவசியம். முன்றுவது பிரஜாசபை தொட்டு 15 அல்லது 16 வருஷகாலமாக முடங்காமல் முறையிட்டுக்கொண்டுவரும் எங்களுக்கு இவ்வியாவது நற்காலம் சிக்கிரம் பிறக்கவேண்டுமென்று ஆசைப்படுகிறேன். எங்களோடு ஒத்து முறையிடத்தொடங்கின நாயர் சகோதரர்களுக்கு 'நாயர் றெகுலேஷன்' ஏற்பட்டு அது பழகி, இப்பொழுது சிர்திருத்தம் அடையவேண்டிய நிலையிலும் வந்துவிட்டது. நாங்கள் இன்னமும் மருமக்கள்வழி வலையில் சிக்கி வருந்துகின்றோம். ஆதலால் இந்த பில்லை, வேண்டும் சிர்திருத்தங்கள் செய்து, கூடிய சிக்கிரத்தில் சட்டமாக்கியருளக்கிரகவேண்டுமென்று சபையாரிடம் வேண்டுக்கொள்ளுகின்றேன்.

பாகம்.

மருமக்கள்வழி சமுதாயத்தில் பாகம் செய்வதற்கு சட்டமில்லாமையாலும் சம்மதப்பிரகாரம் பாகம் செய்துவருகிறது வழக்கம். அதாவது, பாக்கிரமம் தாய்வழியாகவும், தலைவழியாகவும் அவரவர் சௌகரியம்போலே நடந்துவருகிறது.

தலைவழி (அல்லது) ஆள்விதம் பாகமே நன்மை தரக்கூடியது. முதலாவதாக பாகம் வேணுமென்று இப்போது கேள்ப்பதின் நோக்கங்கள் என்ன? (1) காரணவர்களின் கொடுங்கோல் அரசாகூியிலிருந்து தப்பித்து ஒவ்வொருவரும் சுதந்திரம் அடைதல், (2) தம்மிடத்தில் எப்போதும் அன்போடிருக்கும் மனவிமக்களுக்கு தமது சொத்துக்கள் தமக்கு பின் யிருங்குதல். மேல்கூறிய இரண்டு நோக்கங்களும் நிரை நிறைக்கும் கால ஆள்விதம் பாகமேயன்றி மற்றமையாதது. தாய்வழி பாகம் பிரிக்கிற காலத்தில் ஒரு காரணவர் செய்கிற தீங்குகளுக்கு அஞ்சுகின்ற குடும்பத்தை பல காரணவர் வசம் ஒப்புவிக்கயிடமாகும். காரணவஸ்தானம் நீங்காத பாகம் பாகமே அல்லா, அதிலும் ஒரு பயனுமில்லை. இந்த நிரமப்படி அடையும் பாகத்தால் மருமக்கள்வழி முதாயம் நிலையே அடையுமே அன்றி அணுவளவேனும் நன்மை

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அடையாமாட்டாது. இனி தாய்வழியாக பிரித்து ஒவ்வொரு தாய்வழி அங்கத்தினருக்கும் இந்த முறைப்படி பிரித்துவிட்டாலோ என்று சொட்டால் அதுவும் கேட்டமுறை மருமக்கள் வழி சொத்து தாவாட்டில் ஒவ்வொரு அங்கத்தினருக்கும் உருமை உடையது. ஒரு காரணவர்க்கும் இந்த குடும்பத்திலுள்ள ஒரு கடை அங்கத்தினரும் சொத்து உருமையில் வித்தியாசம் ஒரு காலமும் கிடையாது. முப்பு முறை என்ற ஒரு காரணம்பற்றி அவர்கள் குடும்பக் காரணவர்களாகி அதின் பலனை குடும்ப சொத்துக்களை அனுபவிக்கிறார்களே அன்றி போவ்வா. மருமக்கள்வழி சொத்துக்களெல்லாம் ஸ்திரீகளுக்கே அல்லாமலி போமோ. இவர்களுடைய உருமைகளை பாதுகாப்பது புருஷர்கள் ஒவ்வொருவருடையவும் கடமை. புருஷர்களைவிட ஸ்திரீகளுக்கு பங்கு கூடியிராவிட்டாலும் குறையாமலெண்ணம் காப்பாற்றுவது நமது பொறுப்பன்றோ? ஒரு பங்கை எடுத்து பலபங்காகவைத்து பிரித்துக் கொடுக்கும் மிரிப்பங்கும் ஸ்திரீகளுக்கு வர்ப்படுமே அன்றி புருஷர்களுக்கு வர்ப்படமாட்டாது. இந்த முறைப்படி பாகித்தால் புருஷர்கள் ஒரு பங்கை எடுக்க ஸ்திரீகள் அவர்கள் புத்திரைகளின் எண்ணைந்திற்கு வற்பட்டு புருஷன் பங்கில் ஐந்தில் ஒன்றோ 1/5 அல்லது பத்தில் ஒன்றோ 1/10 தான் பிறப்பிடமாகும். உதாரணமாக ஒரு குடும்பத்தில் இரண்டு சகோதரிகளும், இரண்டு சகோதரர்களும் இருக்கிறார்கள். சகோதரிகளில் ஒருத்திக்கு இரண்டு குழந்தைகளும், ஒருத்திக்கு மூது குழந்தைகளும் இருக்கிறார்கள். தாய்வழி பாகமாக பிரித்து ஆள்வீதம் பிரித்தால் இரண்டு சகோதரர்களுக்கு 1/4 பங்கும் சகோதரிகளில் ஒருத்திக்கு $1/4 \times 1/3 - 1/12$ பங்கும் ஒருத்திக்கு $1/4 \times 1/5 \ldots 1/20$ பங்கும் கிடைக்கும். ஆகவே ஒரு குடும்பத்தில் எல்லாபேருக்கும் ஒரு போலே சம அவகாசமுள்ள சொத்து பகுபாதத்தோடி அங்கத்தினருக்கு ஏற்றக்குறை உடன் பகுக்கப்படுகிறது. புருஷர்களுக்குள் பெறும் தகையும் ஸ்திரீகளுக்குள் சிறு தகையும் கிடைக்கும். இது ஞாயத்திற்கும், யுக்திக்கும் சற்றேனும் பொருந்தாது. பாகம் பிரிந்த புருஷனுடைய சொத்து அவனுடைய மனவிமக்களுக்கு சேரவேண்டுமென்பது எல்லாபேருடைய கொள்கை. இம்முறை பாகித்தால் சொந்த சம்பாத்தியத்திற்கு உருமையாயிருந்த அன்னிய குடும்பத்தைச் சொந்த மனவி மக்கள் கூடுதல் எடுக்கவும், சொத்து முழுமைக்கும் அவகாசப்பட்ட குடும்பத்தைச் சொந்த ஸ்திரீகள் மிக குறைந்த தூர அம்சத்தை பிறவும் ஏதுவாகிறது. இது ஞாயமான முறை என்று ஒருவரும் சொல்லத்தணியார்.

தலைவழிபாகம் (ஆள்வீதம்) இந்தமுறைப்படி பாகிப்பதே ஏற்ற முறையாகும். ஒரு குடும்பத்தைச் சேர்ந்த ஒவ்வொரு அங்கத்தினருக்கும் குடும்ப சொத்தில் சம உருமை உண்டென்பதை ஆராலும் மறுக்கமுடியாத காரியம். உண்மையை ஆதாரமாகக்கொண்டே கோர்ட்டாரும், குடும்ப சொத்திலிருந்து குடும்பத்திலுள்ள ஒவ்வொரு அங்கத்தினரும் காரணவர் சிலவுக்குக் கொடுக்கவேணுமென்று விதிஎழுதிவருகிறார்கள். ஆகையால் பக்ஷபாதமன்றி கூறுவோமானால் ஒவ்வொரு அங்கத்தினரையும் எண்ணி கணக்கிட்டு குடும்பசொத்தை பங்கிட்டுக்கொள்வதே ஏற்றமுறையாகும்.

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[Mr. T. K. Velu Pillai.]

மருமக்கள்வழி குடும்பத்தில் பலவிதத்திலும் பெறும் தீங்குகள் விளைவித்து வருகிற காரணவஸ்தானம் நம்மை விட்டு அகலும்.

சிறுவர்கள் கையில் சொத்தை சுதந்திரமாக கொடுத்தால் அவர்கள் சொத்தை நாசம் செய்வது மன்றி கெட்ட பழக்கங்களில் ஏர்ப்பட்டு அதன் பயனை சமுதாயம் காரீகத்திலும் பொருள் உடமையிலும் குன்றி தன் மதிப்பிழக்கயிடமாகுமென்று ஒரு சாதுவர் வாதிப்பார்கள். இது முற்றிலும் தவறாகும் இங்ஙனம் நினைப்பது பெண்களுக்கு கல்வி கர்ப்பித்தால் அவர்கள் காப்புக்குரய யிடமாகுமென்று தப்பாக எண்ணுவதர்க்கொப்பாம்.

சொத்துகளை பலவாறாக பிரித்தால் சமுதாயத்தில் செல்வவான்களின் தொகை குறைந்துவிடுமென்று சிலர் ஆசங்கைகொள்ளலாம். பாகத்திர்கு உரிமை உடைய மக்கத்தாயிசளுக்குள் பெரும்பாலரும் செல்வான்களா. அல்லது உரிமையுயின்ற சொத்துக்களை ஒருவர்கையில் வைத்துக்கொண்டு உள்ளழுகிய பூசணிக்காய் போல் உலகத்தை ஏமாற்றும் இந்த மருமக்கவழிக்காரர்கள் செல்வான்களா.

மேலும் மருமக்கத்தாய சிறுவர்கள் கல்வி விஷயத்தில் முன்னேட்டு திரும்பதற்க்கும் இந்த மருமக்கத்தாய முறயை காரணமாகும்.

உதாரணமாக ஒரு குடும்பத்தில் 50,000 அன்பதுஆயிரம் ரூபாய் சொத்தும் 50 அன்பது அகங்சளும் யிருக்கிறது. ஒவ்வொருவரும் தன்னுடைய பங்கு 1,000 ரூபாய்தான் உண்டு என்று நினைக்காமல் ஒரோருத்தரும் தனக்கு 50,000 ரூபாய்க்கு சொத்து உண்டு என்று நினைத்து யிறுமாப்புக்கொண்டு கல்விப்பயில வேண்டுமென்ற எண்ணம் அரஸ் ஒழிந்து ஏராளமான பொருளை செலவு செய்து பிரயோஜனமில்லாமல் திரும்பி வருகிறார்கள். காரணம் தனக்கு அவகாசப்பெட்ட சொத்து யின்னதுதானென்று தெரியவில்லை. ஆதலால் ஆள்விதபாகமே சமுதாய நலமைக்கு ஏற்றது.

ட்ரப்ட்டு (Draft) பில்லை திருத்த வேண்டிய பாகம்.

தாயார் யிருக்கிற காலத்தில் அவளுடைய பிள்ளைகள் தாயாரிடத்தில் எந்த காரணம் பற்றியும் பாகம் கேள்க்கூடாதென்றும் தாயாருடைய காலம் கழிந்தபின் பரில்தான் பாகத்துக்கு அவகாசம் போலாமென்றும் ட்ரப்ட்டு (Draft) பில்லில் காணப்படுகிறது. அதிலுடைய அர்த்தம் விதமாசவில்லை ஒவ்வொருவரும் தனிதனி ஸ்வாதந்திரியத்தோடு பாகம் கிடைத்தால் தாயாரிடத்தில் பாகம் கிடைக்கவேணுமென்று ஆர் கேள்க்கப்போகிறார்கள். அதை வித்தமாயி எழுதவும் அதாவது முதலாவது பாகம் கழிந்து பின்னீடுள்ள பாகத்தில் தாயாரிடத்தில் காலம்கழிக்கிறதர்க்குமுன்னெ பாகம் கேள்க்க அவகாசமில்லை என்று எழுதணம்.

MR. T. K. VELU PILLAI (*Trivandrum cum Nedumangad*): Sir, I am interested in the Nanjanad Vellala Bill for three reasons: first, because it is before this Council; secondly, because it has

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got several points of affinity with the law which governs the caste to which I belong; and thirdly, because I have a very intimate knowledge of the Nanjinad Vellala Community. I have lived several years among them and I have often looked upon them as a very fortunate kind of people indeed. Sir, the most famous place in Travancore, Cape Comorin, is in Nanjinad. Two of the most famous temples, Cape Comorin and Suchindram, are in Nanjinad. The best rice-fields are in Nanjinad. I speak subject to correction by Mr. P. K. Narayana Pillai who hails from Ambalapuzha and who may perhaps hold that Kuttanad fields are excellent. But he might concede that Nanjinad is not inferior to Kuttanad. If we look into the history of Travancore, we shall find that, whenever there was any difficulty for resources, our Sovereigns have been intending upon the most willing and devoted service of the people of Nanjinad. The community have been trying their best to do their duties towards themselves and to the State. But on account of various causes they have lost the hold that they had in the country. For several years, it has been felt that the *marumakkathayam* law which they embraced for certain political reasons was not enough to meet the requirements of the present state of society. They found that others were successfully trying to rectify the mistakes in their own law. But, because the number of English-educated gentlemen in the Nanjinad Vellala community have not been so large as in other castes, it has not been possible for them to place a legislative measure before this council earlier than this. But the need was always felt and the people of Nanjinad demanded a reform of the law with one voice. I fear, Sir, that we are already too late in legislating for those good people. Let us therefore not lose any more time. It is painful to remember that, although efforts have been made from the year 1090 onwards, they have not had the advantage of the new law up till now.

I am certainly of opinion that the *marumakkathayam* system has become an impossible system whether in Nair *tarwads* or Nanjinad Vellala *tarwads*. And as Mr. Subrahmanya Pillai has put before this House, the Nanjinad people have got greater facilities to give up *marumakkathayam* and embrace *makkathayam* all at once, because, even from the time of their migration, although certain modifications of social habits have arisen, they have not left the old moorings and the old social customs, but have preserved some of their old usages. The *Ukantudama* and *Nankudama* are examples of this. Therefore, Sir, I maintain that it is easier for *them* to get *makkathayam* than for the Nair community to achieve the same result. And for another reason which has been pointed out by my friend, namely, that unlike other communities who seek a change in the law, the Nanjinad Vellalas alone will be affected by the legislation. I must congratulate them on this facility that they have and which is denied to the Nairs.

When we come to the question of marriage, there is the much-debated question of polygamy. I am not at all for passing a law which declares that every male should encumber himself with half a dozen wives. It will be bad for various reasons. But when it is absolutely made out

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[Mr. T. K. Velu Pillai.]

that social customs do not prevent a man from having a second wife, when it is proved to the hilt that a second wife is absolutely necessary for him, whether because the former wife is suffering from a disease or for any other reasons, I do not think that the legislature will be justified in standing between him and his desires, especially because it is not an immoral desire. You find polygamy allowed as an institution throughout India. And in these days of Hindu-Muslim unity, the experience of the Mohammedan community, which is also very prosperous, should benefit us. Therefore, when we find that the people as a whole do not want a law prohibiting a man's liberty of taking more than one wife, we should not object to that. After all, Sir, the question of polygamy and monogamy is a matter of history—very much a matter of taste. (*Laughter.*) Englishmen, for example, take great delight in cheese. (*Laughter.*) For my part, I do not like cheese. (*Laughter.*) And several of my Indian friends have told me that it is imposible for them to like it.

MR. A. HOOGEWERF (*Nominated*): May I know, Sir, what connection there is between cheese and wives? (*Laughter.*)

MR. T. K. VELU PILLAI (*Trivandrum* cum *Nedumangad*): Sometimes both are delightful. (*Laughter.*) Ox-tail soup is a delicacy to some western people. But Hindus have not much pleasure in it, nor some of my Christian friends. Although people in India would like mangoes pickled in hot chillies, a European cannot stand even its smell. He would rebel against it and throw it away. So also, in social customs there is a difference. There is the institution of primogeniture in England. People have been living under it. And in spite of their civilising influence and their position in the civilised world, Englishmen have not rebelled against the system of primogeniture. If primogeniture is sought to be introduced into our country, I am sure, the representative gentlemen who constitute this Council would protest against it. So also social customs depend upon historical reasons; and to say that monogamy is a virtue—it may be a virtue—and that therefore people ought not under any circumstance to take two wives is an argument which I am not able to appreciate.

MR. A. HOOGEWERF (*Nominated*): *Sati* was a social custom. Will Mr. Velu Pillai resort to it again?

MR. T. K. VELU PILLAI (*Trivandrum* cum *Nedumangad*): I do not understand him. If he would put his question in a better form, I am prepared to answer him.

MR. A. HOOGEWERF (*Nominated*): *Sati* is a social custom which has been abolished. Will Mr. Velu Pillai resort to it again?

MR. T. K. VELU PILLAI (*Trivandrum* cum *Nedumangad*): Sir, the question pre-supposes that I have submitted to *sati* once. (*Laughter.*) But I must say that I am here before you and I have not submitted to it. (*Laughter.*) And it is not men that had to submit to *sati* but women. (*Laughter.*) *Sati* has been declared to be illegal.

LIBRARY ARCHIVES Kerala Legislative Assembly

MR. A. HOOGEWERF (*Nominated*) : Would he allow women to commit *sati* ?

MR. T. K. VELU PILLAI (*Trivandrum cum Nedumangad*) : It has been declared to be illegal by legislative enactment. Eeven with regard to that, I must say that if there is a woman who is prepared to die with her husband and who looks upon chastity as the greatest ambition of earthly existence, and that widowhood is a burden, if such a woman wants to immolate herself upon the funeral pyre of her husband, no legislature would be able to prevent her. But as there is a law which is already in force, I do not want to rake up the question.

MR. A. HOOGEWERF (*Nominated*) : If the woman attempts to cut her throat or ascends the furneral pyre of her husband, would Mr. Velu Pillai take up her case ?

MR. T. K. VELU PILLAI (*Trivandrum cum Nedumangad*) : I might say for the satisfaction of Mr. Hoogewerf that murdering wives and murdering husbands were not so common in the community where *sati* was allowed in ancient days.

PRESIDENT : He referred to suicide and not murder.

MR. T. K. VELU PILLAI (*Trivandrum cum Nedumangad*) : I say, suicide and murder stand on different principles. Suicide is one of the most cowardly acts. Murder is a crime, a cowardly, mean, detestable act. But if a woman is prepared to immolate herself on the funeral pyre of her husband, that may be a virtue, that is not an act of cowardice ; She may think it is one of the boldest acts that a human being can do. But, all the same, I do not want to enact such a law permitting *Sati* in our Statute Book.

MR. A. HOOGEWERF (*Nominated*) : May I ask whether, if Mr. Velu Pillai had something to do with law-making, he would go back to *sati* ?

PRESIDENT : Let Mr. Velu Pillai finish and then you may put your questions.

MR. T. K. VELU PILLAI (*Trivandrum cum Nedumangad*) : I am prepared to answer him.

MR. A. HOOGEWERF (*Nominated*) : I wish to know whether, if Mr. Velu Pillai had something to do with law-making, he will go back to *sati*.

RAO BAHADUR K. A. KRISHNA AIYANGAR (*Nominated*) (*Deputy President*) : I rise to a point of order. The whole discussion is irrelevant.

MR. T. K. VELU PILLAI (*Trivandrum cum Nedumangad*) : The question of legislating on *sati* is not before the House and I too think that this question does not arise.

I wish to submit for the consideration of this House that when social customs require that progeny should be the indispensable condition to save a soul according to the Hindu religion, when one wife is barren and when a child is so much wished for, I do not want the legislature to impose its restriction in the matter of getting spiritual salvation as well as in the matter of worldly peace and contentment.

LIBRARY ARCHIVES Kerala Legislative Assembly

[Mr. T. Lakshmanan Pillai.]

I am in favour of individual partition. But I do not want this fetish of individual partition to dismember *tarwads* and pave the way for their ruin. I have heard so much said by gentlemen who belong to other communities, who do not live under the *marumakkathayam* system of law, that individual partition is one of the finest things in the world. May I ask, Sir, if any of these gentlemen who have inherited ancestral properties will be prepared to take an equal share, equal to the share obtained by their children, grandchildren and great grandchildren? The difficulty is, when you accept the principle of individual partition as an abstract principle, a child which is born this moment will get as much right as a *karanavan* who has been in management of a *tarwad* for thirty or forty years. Although there have been several *karanavans* who have been doing mischief, I know of several other *karanavans* who have been doing good to the *tarwad*. That such a *karanavan* should be cut off with a shilling and should be brought down to a position of disadvantage based on abstract theory, the same position as that of a new-born child will not be very wise. My suggestion is that, while accepting the principle of individual partition, we must have many safeguards by which this great Nanjinad Vellala community which has done so much for the people of Travancore and the Royal family of Travancore, should be saved from sudden destruction. With such safeguards, I accept the principle of individual partition.

I may take this opportunity to observe that the *marumakkathayam* system has been a kind of millstone round the neck of the Nanjinad Vellala community. Some twenty-five years ago, when I was quite a boy, I had occasion to speak to a respected gentleman of the Nanjinad Vellala community in the Agastisvaram taluk. I asked him why a sufficient number of young men from Nanjinad were not proceeding to Trivandrum to prosecute their studies in His Highness the Maha Raja's High School and College. That gentleman, with characteristic originality and force of truth, said: "Well, my young friend, God has given us one of the most fertile lands in the world." The fertility of Nanjinad which is one of its great features — has stood in the way of their improvement in the scale of society. That, of course, is a matter which I do not want to be reformed, because I want the paddy fields of Nanjinad to be more fertile than they are and I may even wish that the over-assessment which the people there are now suffering under may also be removed in the fulness of time. But the other difficulty, *viz.*, the *marumakkathayam* system, ought to be removed. And here we have a very favourable opportunity of looking into the question and profiting by the provisions of the Nair Bill and the Ezhava Bill which also stand in some affinity to the Nanjinad Vellala bill. I have very great pleasure in supporting the principle of the Bill.

MR. T. LAKSHMANA PILLAI (*Nominated*): Sir, I support the principle of the Bill. But I wish to correct a fundamental misconception that underlies the use of the expression 'domiciled in Travancore' occurring

LIBRARY ARCHIVES Kerala Legislative Assembly

in section 1, para (ii) of the Bill, as applied to the Nanjanad Vellalas. If it be meant that they were originally foreigners and were subsequently naturalised in Travancore, I have to take exception to that expression, for it is incorrect and historically untrue. There was no migration at all. Nanjanad corresponds to the ancient Tamil kingdom of Venad, frequently referred to in ancient Tamil classics as well as in inscriptions and copper-plates found in Travancore. Venattadikal frequently figures in old copper-plate grants, etc., as witnesses attesting important incidents in other *nads*, as early as the beginning of the Malabar Era. I believe the immediate ancestors of Martanda Varma Maha Raja, the great Sovereign who consolidated the various *nads* into the present State of Travancore, were themselves kings of Venad. The above-mentioned facts may be verified from the *Travancore State Manual* and other historical documents. The kingdom of Venad, extending from Attingal to Cape Comorin, was a purely Tamil country and the present Tamilians of Nanjanad, including the Nanjanad Vellalas, are simply the descendants of the ancient inhabitants of the land. Under these circumstances, I have to submit that the incorrect expression "domiciled in Travancore" has to be deleted.

MR. P. K. NARAYANA PILLAI (*Ambalapuzha*): Sir, I have very great pleasure in welcoming this piece of legislation. Credit is certainly due to all those persons who have worked or co-operated in producing a measure of this description before the Council. This is a piece of original legislation and in that respect the praise that it deserves is certainly much enhanced. In the matter of social legislation, our State is now yearning for a very great measure of reform, and this demand made by the Nanjanad Vellala community is quite in keeping with the times.

The necessity for a measure of this description may be easily demonstrated in view of the opinion entertained by judicial tribunals with reference to social customs and observances not only outside Travancore but also in Travancore. It is very strange to see that, so late as the decision in 35 T. L. R., 360, the High Court of Travancore seem to have been assuming that there is nothing like a valid marriage in the Nanjanad Vellala community. Therefore it is certainly the duty of the legislature to interfere and to place matters in the true light so far as the community is concerned. Hence the provision recognising the existence of a valid marriage in the community is absolutely necessary and is quite timely.

With reference to the general principles underlying the present measure, I have very little to say. I welcome the main principles and I do not oppose in any measure the outstanding principles as may be gathered from the Bill. Further, I notice some of the clauses in the Bill have been very carefully drafted; but in some other respects the same care does not seem to have been exercised.

With respect to the question of monogamy and polygamy, the admirers of the European system of marriage would find it very difficult to approve any system of polygamy. Yet I would draw the attention of

LIBRARY ARCHIVES Kerala Legislative Assembly

[Mr. P. K. Narayana Pillai.]

the Council to what the Deputy President had to say in connection with Nair *tarwads*. In the European system of marriage, it is very difficult to get a European to recognise an Indian system of polygamous marriage. When lately under a misapprehension it was supposed that the Gaekwar of Baroda was no longer, the *Times* came out with a leader about the polygamous nature of his marriage and emphasised the fact that somehow or other the Gaekwar was thought to be an abettor. Though that would be very difficult to accept from a European standard, so far as we are concerned, it is very difficult to dissociate ourselves from a long-standing practice which has been obtaining in the various communities among which we live, but also in those communities which are adjoining them. So the particular provision in this Bill prohibiting polygamy is a question deserving reconsideration at the hands of the Nanjanad Vellala community when the matter will come up for being threshed out in the Select Committee.

Then, with respect to clause 4 of the Bill, Mr. Subrahmanya Pillai's criticism is very valuable so far as I can see. As he observes, if there is a preponderance of the female element in the community and if the legislature is going to interfere in the matter of the marriage of persons whose marriage happens to be dissolved either by death or divorce, then that will be cramping the society to a considerable extent. As a matter of fact, the legislature cannot oppose itself to the present possibility of such marriages. It is certainly not encouraging all manner of undesirable marriages; and as such, the fetter that is sought to be forced under clause 4 has again to be considered.

Passing further on, I come to clause 6 and beg to raise the question why the petition of dissolution of marriage should be presented to the Court of the District Munsift within the local limits of whose jurisdiction the respondent resides. Unlike the Nair Regulation or the Ezhava Regulation, no pecuniary limit has been hinted at in this measure. All that the clause says is that reasonable compensation should be given to parties under certain specified causes. No pecuniary limit, having been fixed it may occasionally be that the parties concerned are very rich and they can make one party give more in the matter of compensation. Therefore, in view of the peculiar provisions of this enactment, that clause requires a modification to see that the petition for separation may be presented either to the District Munsiff's Court or to the District Court as the case may be.

Then again, coming to clause 12, we find that it says

"Every Nanjanad Vellala shall have absolute powers of disposal over his or her self-acquired or separate properties".

I do not know whether the Law Member who is in charge of the Bill took into account some of the recent pronouncements of the Travancore High Court with respect to the nature of *ukantudama*. For example, I may refer to 36 T. L. R., 253, where their Honors observe that the claim for *ukantudama* is a charge upon the *tarwad* property. I

LIBRARY ARCHIVES Kerala Legislative Assembly

the community is prepared to stand by that ruling, to say that there shall be absolute right over separate or self-acquired property is a proposition which cannot easily be granted. I bring to the notice of the House how the law is being worked up by the High Court and how the legislature is proceeding in the matter. Both certainly cannot be consistent.

Then coming to clause 19, we find it says:

"On the death of an intestate female leaving a husband but no children, the widower shall enjoy the property of the deceased till his death or remarriage whichever is earlier".

With respect to that provision, why grandchildren should be excluded is not very clear. In some of the prior provisions of the Bill, the claim of grandchildren to succeed has been recognised. Therefore, whether it is not an omission is what I am led to suspect.

Then coming to the question of maintenance and guardianship, I may say that the language employed seems to stand in need of revision. In the prior provisions of the Bill, it has been provided that owing to certain difficulties as in the case of incurable diseases, etc., a wife may be divorced by the husband or *vice versa*. Suppose the wife is suffering from a so-called incurable disease, which itself may be curable in the advancement of science. What is her condition? Is she not entitled to maintenance from her husband? That is a question that this House has to examine, when we consider the question of maintenance.

With respect to the question of guardianship, there are two sections in the Bill. They are aections 23 and 24. Section 23 says:

"The husband shall be the legal guardian of his minor wife and the father the legal guardian of his minor children in respect of their person and property. On the death of the father, the mother shall be the legal guardian of the minor children."

And section 24 says:

"Where the wife has minor children by a former husband deceased or divorced, she shall be the legal guardian in respect of their person and of the separate properties belonging to them".

These two sections do not take into consideration the possibility which is clearly provided for in the Bill that the husband or the wife as the case may be may themselves be minors. Therefore the provision that the husband shall be the legal guardian of the minor wife requires reconsideration, for in a prior portion of the Bill we have the provision that minors may marry provided they obtain the consent of their guardians. Suppose such a minor husband marries a minor girl. In such a case, will the legislature say that the minor husband shall be the guardian when he himself is under the guardianship of another? That is a difficulty presented by section 23. A similar difficulty is experienced in the case of section 24 also, with respect to the wife.

With respect to testamentary succession, the heading itself is not very happy. It is not a case of testamentary *succession*. Section 27 says:

"A Nanjanad Vellala may dispose of by will the whole of his or her separate or self-acquired property".

LIBRARY ARCHIVES Kerala Legislative Assembly

[Mr. J. John Nidiry.]

It ought to be, properly speaking, a testamentary *power*. With respect to that again, I would bring to the notice of the learned Law Member the prior ruling about which I made reference as to the liability of the properties to certain charges in favour of other people.

These are some of the observations which strike me at this stage of the Bill, and these I present to the House for further examination at the hands of the Select Committee.

Sir, nothing will give me greater pleasure than to assist the passage of this Bill and to better the condition of the community for whose benefit the Bill has been framed.

With these observations, I have very great pleasure in supporting the principle underlying the Bill and I do so.

MR. J. JOHN NIDIRY (*Changanachery* cum *Minachil*): Sir, I have also very great pleasure in supporting the principle of the Bill. But I may be permitted to say that I am not much personally acquainted with the Nanjanad or the Vellala community, and that my knowledge is more by repute. As one who comes from north Travancore, Nanjanad is known to me as a land which possesses very beautiful paddy fields; and we the people of north Travancore also know the Nanjanad Vellala community as the community which had contributed our former accountants who were responsible for the carefully prepared accounts which we posssess in regard to old *ayacut* and other things. Still I may assure my Nanjanad Vellala friends that I take as much interest as anybody else in the welfare of the community and also in the successful passage of this Bill which is to affect largely the future career of the community, and as such, I think it is my duty to speak a few words on this important occasion. I carefully went through the interesting report of the Nanjanad *Marumakkathayam* Vellala Committee which was placed before me and I should say that I congratulate the worthy President and the members of the Committee for the careful and interesting report which they have furnished, and I think that, in spite of the demurring notes we have heard from some of the members, the Committee and the President deserve every congratulation from this House for the very interesting report that they have been able to place before us. It was a surprise to me to hear some discordant notes from my valued friend Mr. Subrahmanya Pillai who himself was one of the subscribers to this report. In spite of the remarks that have been offered against some of the provisions of the Bill, I should think that the Bill, as it is, is decidedly an improvement on the other two connected Bills with which we had to deal—I mean, the Nair Bill and the Ezhava Bill. I am glad to note that provision has been made in the Bill to remove the disabilities of women with regard to their rights to properties, which we find in the ordinary Hindu Law. I am also glad to find that provision is made for individual partition to satisfy the modern aspiration for individual rights in the *tarwad* property. Of course, there may be differences as to details, with regard to

LIBRARY ARCHIVES Kerala Legislative Assembly

which further changes may be effected at the Select Committee stage. Still, on the whole, the provisions as contained in the Bill are deserving of congratulation. I am sure that the Bill, as it is, requires very little modification and that the passing of the Bill is bound to bring untold good to the community.

There has been some dispute as to polygamy and that sort of thing. As far as my opinion goes, I think that the provisions contained in the Bill should be allowed to remain as they are. The framers of this Bill seem to have carefully thought over the matter from the different standpoints and the conclusion they have arrived at seems to be the right one in my opinion. And any serious interference with the provisions is bound to impair their importance and utility.

Then there has been some dispute with regard to partition, *viz.*, whether it should be *per stirpes* or *per capita*. If we concede the principle of impartibility, that is, if the *tarwad* is considered to be an impartible whole, partition *per capita* is the only proper solution, because in that system, every member of the family whether *karanavan* or *anandaravan* or an infant, all are supposed to be co-owners in one sense; and in that sense, if the division is to be *per stirpes* the idea of the original *marumakkathayam* system could not be possible. Most probably, that must have been the reason that led the framers of the Bill to follow division *per capita* instead of *per stirpes*, though in the ordinary *makkathayam* system division *per stirpes* is accepted.

I may promise my Vellala brethren here and outside the Hall that I shall be very glad to contribute my support towards the successful passage of the Bill. With these few remarks, I support the principle of the Bill.

MR. A. HOOGEWERF (*Nominated*): Sir, it is a matter for extreme gratification that social legislation is tending towards *makkathayam* and individual partition, among the Nanjanad Vellala community. Probably, the discussions that we had about divorce in the former pieces of legislation—the Nair and Ezhava Bills—have, in a way, greatly tended towards the sound provisions that have been made in this Bill by the Law Member. I was extremely sorry to hear one or two discordant notes. Sir, it is free and easy divorce which is the curse of a great part of the Christian world, specially America and England. It is this terrible calamity of free divorce that is the cause of disruption and unhappiness in families. Mr. Paul V. Daniel quoted Mr. Azhakappa Pillai who is the son-in-law of the most influential and the richest Vellala in south Travancore. The Catholic aspect of divorce was beautifully put forward by Mr. Azhakappa Pillai—that Catholic marriage is indissoluble. What God has put together, let no man put asunder, for better for worse, for richer for poorer, till death does them part. The law allows Brahmins to have two wives, but 95 per cent. of Brahmins have only one wife in spite of the permission given to them by legislation. Take the Nairs of twenty years ago and take the Nairs now. Eighty or ninety per cent. of them have only one wife although the law allows them to have more than one. Take again the Mahomedans. My friend

LIBRARY ARCHIVES Kerala Legislative Assembly

[Mr. K. Parameswaran Pillai.]

Mr. M. K. Khadir Pillai just tells me that, as a rule, Mahomedans have only one wife, except the man in the street, the vulgar portion of it. So the sanctity of family life with one wife is being recognised all over the world. It was a thunderbolt to me to hear Mr. S. Subrahmanya Pillai make a pronouncement about polygamy, and it took the breath out of me. It is like doubling the Karamanai river or asking it to flow upwards; when civilisation is marching forward and going on to monogamy it is outrageous at this hour of day to propose to go back to polygamy.

MR. T. K. VELU PILLAI (*Trivandrum cum Nedumangad*): Sir, I want to rise to a point of personal explanation. Nobody wanted to enforce polygamy. My point was that, under particular exceptional cases, a man *may* be permitted to have more than one wife. I did not say, nor did I understand Mr. Subrahmanya Pillai to say, that polygamy should be enforced. (*Laughter.*)

PRESIDENT: Mr. Hoogewerf also does not say that.

MR. T. K. VELU PILLAI (*Trivandrum cum Nedumangad*): Because it is rather a subtle point which, I thought would require an explanation, I rose to speak on that point.

MR. A. HOOGEWERF (*Nominated*): Society depends upon the sanctity of married life. It is the foundation of society and it is the foundation of all good government. Unless the husband, the wife and the children live in happiness there can be no society and there can be no good government. It is in fact the fabric of society. No one who has two wives with a number of children by both can be happy. The children will be fighting like Kilkenny cats. The wives will be tearing each other's eyes out and pulling out each other's hair. The time is past when polygamy was looked upon as a social custom. The schoolmaster is abroad, education has spread all over the world, and universities are springing up everywhere. Woman is beginning to know her freedom and is coming by her own, both in the family and in society. What a dreadful thing it is to contemplate to have in one house two wives with jealousy between one wife and another! The man will not have any peace of mind or body at all, and everything will be at sixes and sevens. I therefore strongly protest against the very idea of polygamy. I congratulate the Law Member in having brought forward a Bill on such sound lines quite in keeping with the times, though I do not entirely subscribe to the several items of the Bill. I fully support the Bill as a whole.

MR. K. PARAMESVARAN PILLAI (*Tiruvalla*): Sir, I congratulate the members of the Nanjanad Vellala Committee on the progressive spirit which runs through this Bill. In fact, to my mind, this Bill represents the highwater mark in social legislation in this country. (*Hear, hear.*) In some respects, it goes perhaps much farther than even the wildest expectations of the several members of the community itself. I

LIBRARY ARCHIVES Kerala Legislative Assembly

even feel jealous of the community in so far as in regard to my community the same advanced views were not supported to the same extent in this Council.

In regard to the Bill, there are some matters which, though perhaps they might appear to be details, will affect the main principles of the Bill and which require consideration. The first question to my mind which presents some difficulty is the question of partition. The provision for partition in this Bill is as simple as simple could be. Simplicity is itself a merit in certain cases. Unfortunately it has not got any merit in regard to the provision for partition in this Bill. I regret that the framers of this Bill did not consider it necessary to enlarge or amplify the provisions of this Bill in regard to partition. The Bill recognises the right of every member of a *marumakkathayam* Vellala family to demand a share in the family properties. The only fetter which is sought to be imposed upon this right is the life of the mother. This may appear to be simple at first sight. But when you consider it more closely, you will find that it will lead us into great absurdities. It assumes that every *marumakkathayam* Vellala family consists of a mother and her children alone. A *marumakkathayam* Vellala family, or, for the matter of that, a Nair family, or an Ezhava family might consist of more than three or four generations of members. It may consist of a mother, a grandmother, a great-grandmother and her children. I will illustrate my point a little further by a concrete instance. Take for instance, a family in which there are two generations of members, women having grandchildren. Supposing the grandmother is alive in such a family and one of her daughters or granddaughters dies leaving children, what is to be the law of partition that should be applied to such a family? According to the provisions in the Bill, no member will be entitled to a division except the children of these young ladies who may have died. Take another case. A woman has got three sons and two daughters. She is alive. These two daughters have each got two daughters and two sons. Supposing one of these daughters—the granddaughters—dies leaving two minor sons then in that family which consists of so many members, the minors would alone be entitled to ask for a share in the *tarwad* property. That would be exactly the result of the provision for partition in the Bill; because in clause 9 it says that "subject to the provisions of section 11 every member of a *tarwad* may be compelled to divide from any other member of the *tarwad*". Clause 10 says that "*tarwad* properties shall be divided among all its members"; and clause 11 says that "no claim for partition of *tarwad* property shall accrue to any person during the life-time of the mother of such person". So that, if there is one member whose mother is not alive, he alone shall be entitled to partition. There may be several members, both male and female, who are senior to him, yet those persons who are several years senior to him will not be entitled to ask for partition. That will be the result of the provision as it now stands. I do not think the framers contemplated this aspect, because, on going through the report of the Select Committee on the prior Bill and that of the Marumakkathayam Vellala

LIBRARY ARCHIVES Kerala Legislative Assembly

[Mr.K. Paramesvarn Pillai.]

Committee, I find that this restriction was not imposed with regard to *tarwad* property, and rightly, but in regard only to *sub-tarwad* property. Of course, the *sub-tarwad* may ordinarily consist only of a mother and her children. But in regard to *tarwad* property, no such restriction seems to have been imposed, because they have not met with the difficulty that I am trying to point out to the House. If that is not what is intended, we will have to say that partition can be effected only in the manner suggested by the Ezhava Regulation or the Cochin Nair Regulation. That is the only consistent view that can be taken. If you impose any restriction on the law of partition, although it looks as if the principle of individual partition was recognised, it appears to me that it is far, far behind actual individual partition. If it means what it really reads, it will lead to serious difficulties and absurdities. That is one point which I wish to lay great emphasis upon and which I suppose will be taken note of by the Select Committee at the proper stage.

Another point is with regard to the jurisdiction of courts in the matter of dissolution of marriage. In the case of the Ezhavas and the Nairs, the Munsiffs were vested with jurisdiction because it is purely a formal matter; but in the case of this Bill, the dissolution of marriage is a far more important and serious matter than in the case of the Nairs and the Ezhavas. Very many questions of great importance—questions of fact in issue of a very important nature—will have to be decided by the Court in determining the right to divorce. It appears to me therefore that this matrimonial jurisdiction should not be vested in the Munsiffs but should be conferred on the District Courts which alone should be competent to decide such cases. To my mind no hardship will arise therby because the community lives in a more or less compact area and within that area there is a District Court. Therefore it cannot be a cause for any great inconvenience or injustice.

Then in regard to intestate succession, the mistake that was committed in the Nair Regulation has been perpetuated in this Bill also. The definitions of "issue" and "children" have been the subject-matter of great controversy subsequent to the passing of the Nair Regulation. I am afraid that, if you leave the section here as it is, then it will lead to the same curse of litigation with the uncertainty in regard to this expression.

In regard to the uncertainty of expression we find "children" used apparently only in the sense of daughters of the deceased. Section 14 says:

1. "On the death of an intestate male leaving him surviving children, they shall be entitled to the whole of his property subject to the right of the widow of the deceased for maintenance until her death or her remarriage whichever is earlier.

2. The male and female children of the deceased shall take equally the property referred to in sub-section 1.

3. If any child of the intestate shall have predeceased him but leaving issue, such issue shall be entitled to the share which such child, if alive at the time of the death of the intestate, would have taken".

LIBRARY ARCHIVES Kerala Legislative Assembly

Of course, the children are not entitled under the law for partition to any share in the property at all because the mother may be alive.

There are certain other small defects also some of which have been pointed out, but they may be taken into consideration by the Select Committee and I need not elaborately deal with them now. These are matters, I submit, that should be taken into serious consideration in discussing the several provisions of the Bill.

MR. V. SUBBA AIYAR (*Additional Head Sirkar Vakil*): Sir, I am glad that the Bill has met with the general approval of the House, but I may explain one or two matters against which some criticisms seem to have been levelled.

In the first place, I have distinctly stated in the Statement of Objects and Reasons as to what part I played in the drafting of the Bill. I did not do anything except to copy the Bill submitted by the Committee with one or two verbal alterations which I thought necessary. One was in the case of intestate succession. It was stated that, in the absence of the widow and children, the brothers and sisters alone should take the property. I thought that the Committee had inadvertently omitted the mother. So I included the mother also.

Then in the case of partition, it was expressly stated in the body of the Report that nobody could claim partition of *tarwad* property during the life-time of the parent. I thought they meant only the mother when they said parent, because during the life-time of the father his children are not considered to be members of the *tarwad*. So it can only have meant 'during the life-time of the mother'. I therefore converted 'parent' into 'mother'. These are the only alterations that I made so far as the Bill itself is concerned.

Therefore I am not responsible for any mistake. If there is any mistake, Mr. Subrahmanya Pillai himself must account for it. There is absolutely no note of dissent on the part of the signatories. So I thought that the Bill was acceptable to the whole community. Of course it is open to Mr. Subrahmanya Pillai to change his views on some points, especially since we have had the benefit of the discussions on the Nair Bill and the Ezhava Bill. I do not find fault with Mr. Subrahmanya Pillai for having changed his views. I only thought that there was unanimity of opinion because, even after six months after the publication of the Bill, no objection has been raised. Further, as I said, having acted upon the assurance given by Mr. Subrahmanya Pillai, I think he is estopped from finding fault with me for some mistakes in the Bill.

MR. M. SUBRAHMANYA PILLAI (*Co-opted Member*): I only find fault with him because he failed to bring in the Bill his idea as stated in his Statement of Objects and Reasons. There he says that only a widow and a widower could marry and he has failed to bring out that idea in the bill. That is the only fault that I pointed out in regard to him. As regards the other points, I have myself changed my opinion. I think I have grown wiser by time. (*Laughter.*)

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[Mr. V. Subba Aiyar.]

MR. V. SUBBA AIYAR (*Additional Head Sirkar Vakil*): With reference to clause 4, I may say that, if my friend will only take the trouble to read clause 4 as drafted by him and clause 4 in the present Bill, he will find that there is absolutely no change. Word for word, it is the same. If there is any mistake, I do not think it can be attributed to me.

With reference to the other clauses, we have had very many interesting observations. Mr. K. Paramesvaran Pillai has made some suggestions with regard to partition and other portions of the bill; and so also Mr. P. K. Narayana Pillai. Whether it is myself or the Committee that drafted the Bill, the object of the discussion in the House is to see that the various aspects are placed before the House so that we may come to a final and satisfactory conclusion in regard to the matter. I believe the Select Committee will certainly take into consideration all the criticisms that have been levelled against some of the clauses in the Bill; and when it emerges out of the Select Committee, I daresay, it will be acceptable to the whole House.

The question that the Nanjanad Vellala Bill be read in Council was then put to vote and carried.

The Secretary read the title of the Bill.

MR. V. SUBBA AIYAR (*Additional Head Sirkar Vakil*): I beg to move that the Bill be referred to a Select Committee, consisting of Messrs. M. Subrahmanya Pillai, T. M. Chidambaratanu Pillai, Paul V. Daniel, T. Kumara Pillai, N. Ramakrishna Pillai, K. Paramesvaran Pillai, P. K Narayana Pillai, M. Raja Raja Varma and myself. I think it will take six months before the report is presented to this Council.

PRESIDENT: Mr. Subba Aiyar will be the President of the Select Committee.

The Council adjourned for lunch at 2. 10 P. M. and reassembled at 3. 8 P. M.

THE TRAVANCORE GOVERNMENT SECURITIES BILL.

MR. V. SUBBA AIYAR (*Additional Heal Sirkar Vakil*): Sir, I beg to move that the Government Securities Bill be read in Council.

MR. R. NILAKANDA PILLAI (*Ag. Financial Secretary to Government*): I second it.

MR. V. SUBBA AIYAR (*Additional Head Sirkar Vakil*): The main object of the Bill is to remove some of the difficulties that have been experienced with regard to the Travancore Debenture Bonds. In the first place, the transfer, assignment, or negotiability and other matters connected with these bonds are now regulated by rules passed by the executive, and therefore compliance with the rules will not in the least absolve Government from ultimate liability. Besides, the public who have taken the bonds do not have the necessary protection which they ought to have in the case of Government securities.

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